

## **Frequently Asked Questions: QUALIFIED RETIREMENT PLAN TRUSTEE'S DUTIES**

*These frequently asked questions and answers are provided for general information purposes only and should not be cited as any type of legal authority. They are designed to provide information on general inquiries, due to the uniqueness of each plan document the information contained here may not apply to all plans and in all situations.*

### **What is a trustee?**

The plan trust names a person as trustee. Generally, the trustee is given the authority to perform, in good judgment, all acts necessary or appropriate to manage, invest, and distribute the assets/funds in the trust.

The trustee has exclusive authority and discretion to manage and control the assets of the plan and how those assets are invested; unless the trustee is subject to the investment directions of a named fiduciary, an investment manager, or the plan participants (refer to the plan document to determine whether the trustee of your plan is subject to investment directions).

### **What are the trustee's responsibilities?**

The trustee is responsible for collecting plan contributions from the employer and depositing the funds into the trust according to the provisions of the plan. The trustee will also distribute funds from the plan as directed by the plan administrator for the payment of benefits when plan participants retire, terminate employment, become disabled, or for any other distributable event. The trustee is not responsible for ensuring the contributions or distributions comply with the provisions of the plan.

The trustee is also responsible for representing the trust in case of arbitration and will sign all tax-related documents which are required for the trust. The trustee is required to furnish reports and statements to the plan administrator and employer showing the condition of the trust account and all assets.

### **What does the trustee have to do with investments?**

The trustee and the employer must operate the plan for the exclusive benefit of the participants. With this in mind, the trustee should make all plan investments in a prudent and diversified manner. The trustee may invest in real estate or acquire other non-income producing assets such as art works, precious metals, antiques, etc., on behalf of the plan if the investment is deemed prudent and made in good judgment; these assets require an annual valuation and appraisal. At all times the trustee must ensure there are sufficient liquid assets in the trust in order to meet the distribution needs of the plan.

## **How does the trustee make investments for the plan?**

All plan investments must be made in the name of the plan trust and must be kept separate from the owners or employers assets by using the proper name and federal identification number for plan assets. For example, assets in the plan should be titled as follows:

**John D. Smith, Trustee  
ABC, Inc. Profit Sharing Plan**

Each plan trust is issued a Trust Identification Number (TIN) from the Internal Revenue Service. The trustee should keep a record of the TIN, as the plan will be required to furnish the number in order to establish accounts with banks and investment companies. The TIN is also used on some plan reports which are submitted to the Internal Revenue Service such as the Form 1099-R and Form 945. When completing paperwork related to the plan trust, the trustee should list the trust name and TIN as follows:

**ABC, Inc. Profit Sharing Plan Trust  
Trust Identification Number 00-0000000**

The trust identification number is different from the employer identification number (EIN) that is issued to the employer by the Internal Revenue Service. The trustee is responsible for providing the correct TIN or EIN when completing plan paperwork and should always ensure that the proper entity identification number is provided.

## **What if the trustee is subject to the direction of investments?**

There are exceptions to the trustee's authority to direct plan investments:

Direction by a Named Fiduciary: The plan may name a fiduciary who will be responsible for the management and investment of plan assets. In these cases, the trustee may rely on the advice of the named fiduciary when it comes to the management of plan assets.

Participant Direction: The plan may provide for participant direction of investments. In these cases, the plan participants must direct their investments in the manner stated in the plan document for directing investments and the trustee is obligated to follow the investment directions given by the participants. In most cases, there is an investment form which must be made available to every participant in the plan so that each participant is given the opportunity to direct the investments related to their account.

Delegation to Investment Manager: Authority to invest and manage plan assets may be delegated to one or more investment managers. If an investment manager is appointed they become a named fiduciary, therefore the trustee does not have fiduciary liability with respect to the assets under the investment manager's control.

*For additional information on the duties of a trustee, please contact:  
The Price Company  
(888) 558-1817*